IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1308 OF 2005
WITH
CIVIL APPLICATION NO.789 OF 2007
IN
SECOND APPEAL NO.1308 OF 2005

Ashok Laxman Salve & Ors. .. Appellants.
Vs.
Duryodhan Krishna Kharat & Ors. .. Respondents.

Mr.Siddarth Karpe i/b M/s.YKS Legal for the appellants/applicants.
Mr.V.S.Talkute for respondent nos.1, 2, 4 and 5.

CORAM : D.B.BHOSALE, JJ.
DATED : 25TH JULY, 2007.

P.C.:

. Heard learned counsel for the appellant and the respondent.

2. The defendants have filed this appeal challenging the judgment and order dated 14.10.1991 passed by the first appellate court allowing the appeal and setting aside the judgment and order passed by the trial Court dated 25.11.1992. The suit was filed for partition and possession. The only submission advanced by Mr.Karpe, learned counsel for the appellant on merits is that the two vatan cases in respect of the suit property were filed, one by the plaintiffs and the other by the defendants. Both the cases were dismissed by the Sub-Divisional Officer vide order dated 19.11.1974. The plaintiffs

did not carry the matter further. The appeal filed by the appellant-defendants was allowed vide order dated 12.5.1976. He, therefore, submitted that the plaintiffs have no right whatsoever in the suit property and they cannot claim to be the vatandars. It is clear from the observations made by the courts below that both the vatan cases were based on the averments made therein that the plaintiffs and defendants were the vatandars in respect of the suit property and the suit properties were in wrongful possession of one Keskar. When the appeal was allowed the appellate authority declared Shri Keskar as a person in unauthorised possession of the suit property. In view thereof the appellate court in paragraph 10 and 11 of the judgment has rightly held that the plaintiff and defendants were vatandars in respect of the suit property and both are entitled to have share. In my opinion, the findings recorded by the courts below are entirely based on the evidence on the record. No substantial question of law is raised. The second appeal deserves no admission. In view thereof the delay of two years and 215 days in filing the appeal cannot and need not be condoned, apart from the fact that no sufficient cause is shown for condoning the delay. In the circumstances civil application for condonation of delay stands dismissed.

(D.B.BHOSALE, J.)